

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT COURT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
CHARLOTTE, N. C.

MAR 9 2006

UNITED STATES OF AMERICA
ex rel. Frances Renay Franceschelli

Plaintiffs,

v.

Heart Care Center of Charlotte, P.A.,
Amir Farahany, M.D. and
William Tyson Bennett, M.D.

Defendants.

U. S. DISTRICT COURT
W. DIST. OF N. C.

CIVIL NO. 3:04CV493-MU

FILED UNDER SEAL

ORDER TO UNSEAL DOCUMENTS

This matter having come before the Court upon the Government's Motion to Unseal Case, the Court makes the following findings:

1. This case was filed on September 21, 2004 by Frances Renay Franceschelli alleging violations of the False Claims Act, 31 U.S.C. §3729 *et seq.* Ms. Franceschelli, the plaintiff, is known as the relator, or whistleblower, and the action the relator brings is known as a *qui tam* action.

2. Title 31 Section 3730(b)(2) provides for the *qui tam* complaint to remain under seal for 60 days from the filing of the action in order to allow the Government to investigate the allegations set forth in the complaint.

3. Upon motion of the Government, the Court has several times extended the seal period in this matter in order to allow the Government to complete its investigation as contemplated by the statute. This matter has been under seal for a total of 17 months.

4. The Government's investigation is complete, and the parties have negotiated a settlement of all claims.

5. On February 22, 2006, a settlement agreement was executed among the parties and the Government filed with the Court a Notice of Election and a Stipulation of Dismissal consistent therewith.

6. In *qui tam* actions, the seal exists for the purpose of protecting the Government's investigation from public disclosure. Because the investigation is complete, there is no further need to withhold the existence of this action from the public.

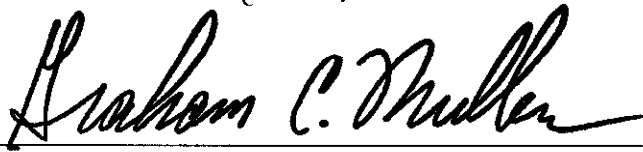
7. The lifting of the seal in *qui tam* actions is specifically authorized by 31 U.S.C. §3730(b)(3).

NOW THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

1. That the Complaint, the Amended Complaint and this Notice shall be and hereby are unsealed and made available to the public.

2. That all other contents of the Court's file in this matter (including, but not limited to, any motions filed by the Government for extensions of the sixty-day investigatory period, oppositions filed by the United States in response to any motions by Relator, reply briefs, memoranda and supporting documents, and individually identifiable patient records, if any) remain under seal and shall not be made available to the public.

This the 9th day of March, 2006.

A handwritten signature in black ink, reading "Graham C. Mullen". The signature is written in a cursive style with a large, stylized "G" and "M".

GRAHAM C. MULLEN
UNITED STATES DISTRICT JUDGE